

**SUBCHAPTER A: PROGRAM FOR MONITORING AND ASSESSMENT OF
WATER QUALITY BY WATERSHED AND RIVER BASIN**

§§220.1 - 220.8

Effective March 29, 2018

§220.1. Purpose and Scope.

(a) The purpose of this chapter is to establish procedures for the implementation of the Texas Clean Rivers Program under Texas Water Code (TWC), §26.0135, which commission program monitors and assesses water quality conditions that support water quality management decisions necessary to maintain and improve the quality of the state's water resources (as defined in TWC, §26.001(5)). The commission has the responsibility of ensuring that regional monitoring and assessments of water quality by watershed and river basin shall be conducted by the river authorities and designated local governments that have entered into cooperative agreements with the commission, or by the commission where a river authority does not exist or is unwilling to participate. Whenever feasible the monitoring and assessment will be the result of a cooperative partnership between river authorities, designated local governments, other political subdivisions, other state agencies, and the commission to provide the commission and other state agencies, river authorities, and local governments with sufficient information to take appropriate corrective action necessary to meet the goals of the TWC. The regional water quality monitoring and assessment program shall be designed to allow citizens and private organizations opportunities for involvement in protecting the state's water resources. The monitoring program shall provide data to identify significant, long-term water quality trends, characterize water quality conditions, support the wastewater discharge permitting process including support for the total maximum daily load process as necessary, and classify unclassified streams. The assessments must include a review of wastewater discharges, nonpoint source pollution, nutrient loading, toxic materials, biological health of aquatic life, public education and involvement in water quality issues, local and regional pollution prevention efforts, and other factors that affect water quality within the watershed.

(b) A river authority or designated local government shall be eligible for reimbursement of the actual costs of administration of the Texas Clean Rivers Program and implementation of the provisions of this chapter. The schedule and amount of any reimbursement shall be based on an equitable apportionment among basins. The allocation procedure shall be reviewed periodically and may be adjusted to reflect results of contractor evaluations, to address emerging issues, or to focus on problem areas identified in the water quality assessments.

§220.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings. Unless specifically defined for this chapter, definitions for other words and terms may be found in Chapter 3 of this title (relating to Definitions).

(1) Assessment report--A comprehensive record of historical, existing, and projected water quality conditions of a watershed.

(2) Designated local government--A local government that has been designated through cooperative agreement or contract with the commission to perform a regional assessment pursuant to this chapter.

(3) Nonpoint source pollution--Generally results from land runoff, precipitation, atmospheric deposition, drainage, seepage, or hydrologic modification. Any source of pollution that is not subject to regulation as a "point source."

(4) Pollution--The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(5) Quality assurance project plan (QAPP)--The formal document which describes in comprehensive detail the necessary quality assurance/quality control activities that must be implemented to ensure that results of work performed will satisfy stated performance criteria.

(6) River authority--Any district or authority created by the legislature under Texas Water Code (TWC), §30.003, which contains an area within its boundaries of ten or more counties and any other river authority or special district created under Article III, §52 and Article XVI, §59 of the Texas Constitution, which are designated by rule of the commission to comply with this chapter.

(7) River basins and coastal basins--The river basins and coastal basins now defined and designated by the Texas Water Development Board as separate units for the purposes of water development and inter-watershed transfers, and as they are made certain by contour maps on file in the offices of the Texas Water Development Board, including, but not limited to, the rivers and their tributaries, streams, water, coastal water, sounds, estuaries, bays, lakes and portions of them, as well as the lands drained by them.

(8) Total Maximum Daily Load (TMDL)--Water quality-based process used to establish pollution control limits for waters not meeting water quality standards. The process is established under the federal Clean Water Act to establish control limits where technology-based controls are not adequate and should include determination of loading capacity, allocations of wasteload and loading from other pollutant sources, and an appropriate margin of safety.

(9) Unclassified waters--Those waters for which no classification has been assigned and which have not been identified in Appendix A of §307.10 of this title (relating to Appendices A-E).

(10) Wastewater permit--A permit issued by the commission under authority of TWC, Chapter 26, including those permits issued under the authority of TWC, Chapter 26 and other statutory provisions (such as the Texas Health and Safety Code, Chapter 361). For the purpose of this section, a permit shall include any authorization under TWC, Chapter 26 to treat or discharge wastewater, including a registration or permit by rule.

(11) Water right--A right acquired under the laws of the state and the rules of the commission to impound, divert, or use state water.

(12) Work plan--A document outlining the proposed scope of work, including a time schedule and cost expenditures, from a river authority or designated local government to perform a service and/or provide a comprehensive regional assessment of the watershed.

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§220.3. Responsibilities of the Commission.

(a) The commission shall establish a program to provide oversight and evaluation of the strategic and comprehensive monitoring of water quality and the periodic assessment of water quality in each watershed and river basin of the state.

(b) Subject to available funding described in Chapter 21 of this title (relating to Water Quality Fees), the commission shall develop cooperative agreements and contracts with river authorities and designated local governments to implement the Texas Clean Rivers Program. These contracts and cooperative agreements will be administered by the commission staff in accordance with the most recent State of Texas Uniform Grants and Contract Management Standards for State Agencies (Texas Government Code, Chapter 783) and any specific requirements of the applicable State General Appropriations Act.

(c) As part of the administration of this program the commission will develop quality control/quality assurance procedures to insure that water quality data collected under this chapter will maintain statewide consistency and will become part of the statewide database to be used in establishing water quality management permitting decisions.

(1) The commission will establish a schedule for review and approval of quality assurance plans and updates which describe procedures to be implemented by contracting agencies. Use of the quality assurance plans by commission program staff will assure that water quality monitoring data are collected consistent with statewide objectives.

(2) The commission program staff will conduct periodic program audits of contractors and subcontractors using a risk-based procedure to insure adherence to the quality assurance procedures.

(d) The commission has primary responsibility for implementation of water quality management functions and will implement these functions on a watershed basis in consideration of priorities established by river authorities and basin steering committees. Data collected in accordance with an approved quality assurance plan will be added to the statewide water quality database and used for the development and implementation of water quality management functions of the commission including review and revision of surface water quality standards and wastewater discharge permits.

(e) The commission will utilize water quality assessments developed in this program, along with other water quality assessments and studies in determining the need for cities with populations of 10,000 or more to develop water pollution control and abatement programs to reduce water pollution from non-permitted sources.

(f) The commission will assess and collect fees from wastewater permit holders and water right holders as described in Chapter 21 of this title and will apportion these funds equitably among the basins.

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§220.4. Responsibilities of River Authorities and Designated Local Governments.

(a) Each river authority and designated local government that has entered into an agreement with the commission to perform duties under this chapter shall:

(1) Organize and lead a basin-wide steering committee to assist with the development of water quality objectives and priorities for the basin and to fulfill responsibilities described in §220.5 of this title (relating Responsibilities of Steering Committees). Membership of the committee will reflect a diversity of interests in the basin and will include persons paying fees described under Chapter 21 of this title (relating to Water Quality Fees), the Texas State Soil and Water Conservation Board and other appropriate state agencies (for example, Texas Parks and Wildlife Department, Texas Water Development Board, Texas General Land Office, Texas Department of Health, Texas Department of Agriculture, Texas Railroad Commission, and the Texas Department of Transportation), private citizens, representatives from political subdivisions, and other persons with an interest in water quality matters in the watershed or river basin.

(2) Develop and maintain a basin-wide water quality monitoring program that eliminates duplicative monitoring, facilitates the assessment process to identify problem areas and support long-term trend analyses, and targets monitoring to support the wastewater discharge permitting and standards process.

(A) A quality assurance project plan must be developed and approved to support all data collection activities. Data collected by subcontractors and others under this program must conform to the approved quality assurance project plans.

(B) The water quality monitoring program shall address collection of baseline water quality data to support trend analyses and development of the statewide water quality inventory required under federal Clean Water Act, §305(b).

(C) The water quality monitoring program shall include site-specific data collection to support the wastewater discharge permitting process for fee payers in the basin.

(D) The water quality monitoring program shall include watershed specific data collection to address priority water quality problem areas identified by river authority trends analyses or steering committee input.

(3) Establish and maintain a watershed and river basin water quality database and/or clearinghouse composed of quality-assured data, river authority programs, wastewater discharge permit holders, state and federal agencies, and other relevant data sources. This data shall be submitted to the commission for inclusion in the State of Texas Surface Water Quality Monitoring database and shall be made available to any interested person.

(A) Each river authority and designated local government shall establish and maintain the technology to aid in the electronic dissemination of water quality data and information for their basin. Water quality data for the basin shall be submitted to the commission at a minimum of once every six months in an agreed format for inclusion in the statewide water quality database.

(B) River authorities and designated local governments shall participate in task force meetings to establish, review, and update data management procedures to reflect changes in information management technology.

(4) Identify water quality problems and known pollution sources and set priorities for taking appropriate actions to eliminate those problems and sources.

(A) Each river authority shall utilize the commission's procedures for data evaluation and analyses to the maximum extent possible. If alternative evaluation processes are necessary, the procedure must be presented in writing to the commission for approval by the executive director prior to its application.

(B) In order to assure inclusion in the development of the statewide water quality inventory, the analytical procedures shall be comparable to those used by the commission.

(C) Steering committees shall be provided the opportunity to actively participate in the identification of priority problem areas and the development of appropriate actions to address the problems and pollutant sources. Steering committees shall have the opportunity to determine the priority of maintaining or protecting watersheds with existing good quality water.

(5) Develop a process for public participation that includes the basin steering committee and that provides for meaningful review and comments by private citizens and organizations in the local watersheds.

(6) Recommend water quality management strategies for correcting identified water quality problems and pollution sources.

(7) Develop work plans which include priorities of the state and regional water quality management program. Upon agreement between the commission, the river authority, and/or designated local government, the provisions of the work plan become the scope of work of the program contract or cooperative agreement.

(b) Each local government or other agency that collects water quality data within the watershed shall cooperate with the river authority or designated local government in developing the basin monitoring plan and assessment by providing to the river authority all of the information available to that organization about water quality within its jurisdiction, including the extraterritorial jurisdiction of a municipality. Data collected by local governments must be consistent with an approved quality assurance plan to be included for wastewater discharge permitting and standards decisions.

(c) Monitoring and assessment is a continuing duty and shall be revised periodically with appropriate amendments and updates to the quality assurance plans to reflect changes in procedures and factors subject to the assessment.

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§220.5. Responsibilities of Steering Committees.

(a) The steering committee's role is advisory in nature and will involve assistance with the review of local issues and creation of priorities by watershed for the basin. Committee members should also assist with the review and development of work plans, reports, basin monitoring plans, and basin action plans for the basin.

(b) A steering committee established by the commission and contractor to implement this program in areas without a river authority or other designated local government willing to carry out the program is not subject to Revised Statutes, Article 6252-33 (relating to agency advisory committees).

(c) Steering committees should serve as the focus of public input to assist the river authorities and other agencies to develop water quality objectives and priorities by watershed and by basin that are achievable considering available technology and economic impact.

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§220.6. Reporting Requirements.

(a) Summary reports. Once every third state fiscal biennium, in accordance with the schedule provided in the *Texas Clean Rivers Program Guidance*, as amended, each river authority will submit a written summary report to the commission, the State Soil and Water Conservation Board, and Texas Parks and Wildlife Department on the water quality of the watershed or river basin.

(1) The summary report must identify concerns relating to the watershed or bodies of water, including an identification of bodies of water with

impaired or potentially impaired uses, the cause and possible source or use impairment, and recommended actions that may be taken to address those concerns.

(2) The summary report must discuss the public benefits from the water quality monitoring and assessment program, including efforts to increase public input in activities related to water quality and the effectiveness of targeted monitoring in assisting the permitting process.

(3) Prior to submittal of the report to the agencies listed in subsection (a) of this section, the river authority will present the report to the basin steering committee for approval and will also make the report available to water right holder and wastewater permit holders for review and comment.

(4) All comments regarding satisfaction with or suggestions for modification of the report for the watershed, the operation and/or effectiveness of the monitoring and assessment program, and the use of funds shall be considered, summarized, and submitted, along with the approved summary report, to the governor, the lieutenant governor, and the speaker of the house of representatives not later than 90 days after submission to the commission and other agencies listed in paragraphs (1) - (3) of this subsection.

(b) Basin highlight reports. Each river authority and designated local government will develop a basin highlight report annually to be provided to each member of the basin steering committee and all fee payers within the basin. This report should summarize Texas Clean Rivers Program activities conducted in the basin. Procedures for electronic distribution should be developed to ensure most efficient availability to the public.

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§220.7. Leveraging of Funds to Support Federal and State Grant Programs.

The commission, river authorities, and designated local governments may use funding from this chapter to leverage other state and federal program funds to support the overall water quality monitoring and assessment goals of this chapter.

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§220.8. Allocation of Water Quality Fee Revenue for the Purpose of Regional Assessments of Water Quality.

(a) A river authority or designated local government shall be eligible for reimbursement of the costs of development of water quality assessments and implementation of the provisions of this chapter.

(b) The schedule and amount of any reimbursement shall be determined by mutual agreement of the commission and the appropriate river authority or local government based on an approved water quality assessment report or work plan as required under §220.4 of this title (relating to Responsibilities of River Authorities and Designated Local Governments).

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